

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATIONS No 4113 & 4114 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PRAVINCHANDRA UMIYASHANKER YAGNIK

Versus

JOINT CHARITY COMMISSIONER

Appearance:

MR JJ YAJNIK for Petitioner

MR GM JOSHI for Respondent No. 2, 3, 4, 5

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 17/10/96

ORAL JUDGEMENT

The Assistant Charity Commissioner, Baroda accepted the Change Reports No.249/94 and 329/94 with respect to the Janseva Kelavani Mandal by order dated 30.7.1994. The petitioner who claims to be the founder member of the Janseva Kelavani Mandal (hereinafter referred to as 'the Mandal') challenged the said order before the Joint Charity Commissioner, Baroda on the ground that the application No.249/94 was not filed by him and in fact the signatures have been forged thereon. He also made serious allegations with respect to the

proceedings pending before the Asstt.Charity Commissioner. Both the appeals filed by the petitioners were allowed and direction was given to the Asstt. Charity Commissioner to decide the matter afresh. Respondent No.2 Mr B D Patel preferred an appeal against the said order before the District Judge, Kheda at Nadiad. The matter was eventually heard by the Extra Asstt. Judge, Kheda at Nadiad. The learned Judge, by order dated 25.4.1995 stayed the implementation of the order of the Joint Charity Commissioner. Against the said order of the Extra Asstt.Judge, the present Special Civil Applications have been preferred by the petitioners.

2. Looking to the controversy involved in these petitions, this Court, by order dated 12.8.1996, directed the Asstt. Charity Commissioner to proceed with the matter as per the directions given by the Joint Charity Commissioner in his order dated 29.12.1994. In view of this, the Asstt. Charity Commissioner, Baroda, by order dated 21.09.1996 decided the matter afresh. The grievance of the petitioners is with respect to the proceedings taken by the Asstt. Charity Commissioner. However, it is not in dispute that the order of the Asstt. Charity Commissioner has been challenged by way of appeal before the Joint Charity Commissioner. It is also stated that the said appeals are fixed for hearing on 28.10.1996. In view of this, I am not inclined to enter into the controversy with respect to the hearing before the Asstt. Charity Commissioner. Considering the facts of the case, ends of justice would be met if direction is given to the Joint Charity Commissioner to decide the appeals pending before him against the order of the Asstt. Charity Commissioner dated 21.09.1996 expeditiously.

3. In view of the order of of this Court dated 12.8.1996, order of the Joint Charity Commissioner as well as of the Extra Asstt.Judge, dated 25.4.1995 does not survive. The Jt. Charity Commissioner, Baroda is directed to dispose of the appeals pending before him against the order of the Asstt.Charity Commissioner dated 21.9.1996 as early as possible and in any event latest by 30.11.1996. Till 30.11.1996, the present arrangement with respect to the Trust shall continue. It is however, made clear that the petitioner will not take any decision having financial implication without prior permission of the Jt. Charity Commissioner. Rule made absolute to the aforesaid extent.

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